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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/617,944	07/11/2003	Darry L. Grubb	CLEAV.65012	3997	
7590 04/20/2004			EXAM	EXAMINER	
Michael S. Doll			LEV, BRUCE ALLEN		
Fulwider Patton	Lee & Utecht, LLP				
Suite 1550		ART UNIT	PAPER NUMBER		
200 Oceangate			3634		
Long Beach, CA 90802			DATE MAILED: 04/20/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner			<u></u>			
Examiner Bruce A Lev 354 - The MAILING DATE of this communication appears on the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Eleasewor of trave may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled. If the period for reply is pecified above, the maximum statutory period will early not will be capital from the mailing date of this communication if the period for reply is pecified above. The maximum attention period will early not will be capital from the realting date of the communication of the period for reply is pecified above. The maximum statutory period will early not will early not will early and will be capital from the realting date of the communication. Fastors to inject with the Chief chief than there monities after the mailing date of the communication, even if timely filled, may reduce any search petent term adjustment. See 37 CFR 1.704(b). Status 1) □ Responsive to communication(s) filled on 11 July 2003. 2a) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is filled on 11 July 2003. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) □ Ze-33 is/are pending in the application. 4a) Of the above claim(s) □ is/are withdrawn from consideration. 5 □ □ claim(s) □ is/are allowed. 6 □ □ Claim(s) □ is/are allowed. 6 □ □ Claim(s) □ is/are objected to. 7 □ □ Claim(s) □ is/are objected to. 8 □ Claim(s) □ is/are objected to by the Examiner. Application Papers 9 □ The drawing(s) filled on □ is/are: a □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance.	•	Application No.	Applicant(s)			
Bruce A. Lev 3584 Brend for Reply A. SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. THE MAILING DATE OF THIS COMMUNICATION. Brends of the marphy is reflected and the screen control of the control of th	Office Author Oursenance	10/617,944	GRUBB ET AL.			
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.35(c). In no event, however, may a reply be timely filed Extension of time may be available under the provisions of 37 CFR 1.35(c). In no event, however, may a reply be timely filed Extensions of time may be available under the provisions of 37 CFR 1.35(c). In no event, however, may a reply be timely filed Extension of time and the provision of						
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DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 22-33 are rejected under the judicially created doctrine of double patenting over claims1-16 of U. S. Patent No. *6,591,890* since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: A speed reducer comprising a cylindrical housing; an inner surface with a plurality of inwardly projecting ribs; a shaft with a plurality of outwardly extending ribs; a fluid receiving gap; and braking fluid.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

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Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention", and "*is disclosed*", as in line 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 33 is rejected under 35 U.S.C. 102(b) as being anticipated by *Fukuchi* 4,535,829.

Fukuchi sets forth a speed reducer comprising a comprising a cylindrical housing defining a speed control chamber; a rotatable shaft; and means for resisting rotational movement (inclusive of members22 and 28).

Allowable Subject Matter

Claims **22-32** would be allowable upon the filing of a Terminal Disclaimer over Patent No. 6,591,890.

The following is an examiner's statement of reasons for allowance:

As concerns independent claims 22 and 32, structural limitations pertaining to a speed reducer for use in a retractable screen system having a **speed control chamber**

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including inner surface with a plurality of *inwardly projecting ribs*; a shaft with a plurality of *outwardly extending ribs*; a fluid receiving *gap*; and *braking fluid for controlling the winding speed of a screen*, along with the other structural limitations are neither taught nor suggested by the prior art of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

4/16/04

Bruce A. Lev Primary Examiner

Group 3600